Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands	CC Docket No. 92-166

Comments of AirTouch Communications

Stephen L. Goodman
Halprin, Temple & Goodman
Suite 650 East Tower
1100 New York Avenue, N.W.
Washington, D.C. 20005
(202) 371-9100

David A. Gross
AirTouch Communications
1818 N Street, N.W.
Washington, D.C. 20036
(202) 293-4955

Counsel for AirTouch Communications

SUMMARY

AirTouch Communications (formerly PacTel Corporation) is interested in this proceeding both in its role as a leading provider of mobile communications and as an intended provider of above 1 GHz LEO satellite services through the GLOBALSTAR system. AirTouch supports the Commission's efforts to adopt a regulatory system that will encourage the rapid deployment of the new services made possible by the above 1 GHz LEO satellite systems. These systems will allow businesses and individuals to communicate from anywhere in the world at affordable rates.

Jobs will be created, economic development in the United States will be spurred and global competitiveness will be enhanced as U.S. LEO technology and expertise is exported abroad, and as businesses begin to take advantage of the improved communications capabilities made possible by LEO satellite systems. In order that these benefits are realized, however, it is critical that in the rules promulgated for above 1 GHz LEO satellite service the Commission permit service providers to operate as private carriers, and allow the LEO satellite systems to use the C-Band for their feeder links.

Mandating common carrier status or other nondiscrimination requirements would impose unnecessary rigidity that could hamper the deployment of these systems. LEO satellite systems require the flexibility to tailor their operations in a manner that recognizes the unique needs of these global systems. In addition, common carrier regulation is unnecessary in light of the expectation of robust competition among the numerous above 1 GHz LEO satellite systems that can be accommodated under the NPRM's sharing plan, as well as competition from terrestrial

services and geostationary satellite systems.

Granting satellite service providers with the flexibility to conduct their operations as either private carriers or common carriers is also consistent with Commission precedent and its recent decision to provide NVNG LEO satellite systems with such an option. Finally, declining to adopt a rule requiring service as a common carrier will allow the Commission to determine on a case-by-case basis, with a concrete application and a specific structure before it, whether common carrier or private carrier status is appropriate for the specific circumstances of each LEO satellite system.

AirTouch also urges the Commission to allow above 1 GHz LEO satellite systems to use the C-Band for feeder links. C-Band is clearly the best of the alternatives because of the propagation characteristics and cost advantages. In the C-Band, the LEO satellite systems will be able to share the spectrum with geostationary systems through reverse band operations. The gateway operators will also be able readily to coordinate with terrestrial users in the C-Band because the gateway operators will have substantial flexibility in where they locate the gateways. The benefits of feeder link operations in the C-Band, including lower costs and more reliable service, will be enjoyed by AirTouch's customers.

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Comments of AirTouch Communications

AirTouch Communications ("AirTouch")(formerly PacTel Corporation) hereby comments on certain portions of the Commission's proposed service rules for the above 1 GHz low-Earth orbit mobile satellite service.[1] AirTouch is one of the world's leading providers of mobile services through cellular and other terrestrial systems. In addition, AirTouch is a limited partner in GLOBALSTAR, L.P., the entity formed to obtain investment in and coordinate international service for the proposed GLOBALSTAR low-Earth orbit ("LEO") mobile satellite system to be operated by Loral/QUALCOMM Partnership, L.P. ("LQP"). AirTouch intends to provide LEO mobile satellite services through GLOBALSTAR, and thus is very interested in the service rules developed in this proceeding.

AirTouch supports the Commission's efforts to create a

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[1] Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, CC Docket No. 92-166, 9 FCC Rcd 1094 (1994)(hereafter "NPRM").

regulatory system that will encourage the development of these new services, and urges the Commission to move ahead expeditiously with this proceeding. Low-Earth orbit satellite systems uniquely will be able to take advantage of worldwide coverage and low-power needs to provide a myriad of new services to underserved and unserved areas around the globe. As recognized in the NPRM, the LEO satellite services will include search and rescue, disaster management, interconnected voice services and cargo location. Low-Earth orbit satellite services will be able to supplement and complement the current landline and terrestrial radio networks. Businesses and individuals alike will benefit from the ability to communicate from anywhere on the planet at affordable rates. As the Commission recognizes in the NPRM, economic development in the United States will be spurred and global competitiveness enhanced as U.S. LEO technology and expertise is exported abroad, and as businesses begin to take advantage of the improved communications capabilities made possible by LEO satellite systems.

As explained in greater detail below, AirTouch believes that the service rules promulgated by the Commission will significantly impact the viability and reliability of LEO satellite services. In particular, AirTouch maintains that it is critical for the Commission to (i) permit LEO satellite systems to operate as private carriers; and (ii) allow LEO satellite systems to utilize the C-Band for their feeder links. These two steps will recognize the specific characteristics of LEO mobile satellite systems, thus allowing the services to develop fully and rapidly. In turn, these measures will ensure that the

numerous benefits of LEO mobile satellite services, including the creation of literally thousands of jobs and the availability of important services throughout the world, will indeed be realized.

I. Regulatory Status of LEO Satellite Systems

In the NPRM, the Commission raised several questions regarding the regulatory status of the proposed LEO satellite services in light of the recently enacted provisions of Section 332 of the Communications Act that now categorize mobile offerings as either a private mobile radio service ("PMRS") or as a commercial mobile radio service ("CMRS").[2] The Commission indicated that when providing space segment capacity directly to the public (or such classes of eligible users as to be effectively available to a substantial portion of the public), the service would be deemed common carriage consistent with the legislative history of the Budget Act (which created the CMRS/PMRS categories).[3] With respect to other aspects of the classification of LEO satellite services, the NPRM also referenced the then-pending Commission proceeding generally addressing the implementation of the new Section 332 provisions.[4] The Commission requested comment on whether all of the above 1

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[2] NPRM at paras. 79-81.

[3] NPRM at para. 79, citing to the Conference Report (H.R. Rep. No. 103-213, 103rd Congress, First Session) at p. 494.

[4] Implementation of Sections 3(n) and 332 of the Communications Act - Regulatory Treatment of Mobile Services, 8 FCC Rcd 7988 (1993). The decision in that proceeding was released not long after the release of the NPRM. Implementation of Sections 3(n) and 332 of the Communications Act - Regulatory Treatment of Mobile Services, GN Docket No. 93-252, FCC 94-31, released March 7, 1994 ("CMRS Decision").

GHz LEO satellite service providers should be deemed common carriers, or even if not classified as CMRS, whether nondiscrimination provisions should nonetheless be imposed on all above 1 GHz service providers.

AirTouch does not believe that the public interest would be served by treating LEO satellite service providers as common carriers, and concludes that imposition of nondiscrimination provisions are unnecessary and unduly restrictive in this situation. AirTouch believes that mandating a common carrier regime could significantly hamper the development of LEO mobile satellite services by impeding the ability of these inherently global systems to organize themselves and conduct their operations as efficiently as possible, taking into account the unique needs of LEO satellite systems.

A. The FCC Should Not Mandate Common Carrier Status

1. Unique Qualities of LEO Satellite Systems

Commercial low-Earth orbit satellite systems are a new phenomenon, taking advantage of advances in satellite and launch vehicle technologies that make such systems practical. The operation of the satellites much closer to the Earth's surface than geostationary satellites allows users to communicate with the satellites via small, low-cost hand-held transceivers. Operation of the satellites in low-Earth orbit requires a constellation of satellites to provide service availability because of the movement of the satellites relative to the surface of the Earth. One major benefit of this characteristic is that once the satellite constellation is launched to provide service

in the United States, those same satellites will be able to provide service throughout the world with only a small incremental investment in gateway earth stations.

The global coverage inherent in LEO operations, however, also introduces a fair measure of cost and complexity into the satellite systems that mandates the use of flexible business structures. The relatively large amount of capital necessary to construct and launch these global satellite systems renders it nearly impossible for a single company to finance an above 1 GHz LEO satellite system. In addition, worldwide operations may benefit from the inclusion of local companies from foreign countries as partners, investors or some other role in the LEO satellite systems to facilitate activities outside the United States. The size and complexity of the only current global mobile satellite service consortium -- INMARSAT -- is strong evidence that LEO satellite systems can only be provided through multiple partner ventures. Thus, LEO satellite systems will require the flexibility to adopt business structures that can accommodate these potentially complicated, capital-intensive business arrangements.

This need for flexibility in structuring the business would not be compatible with the relative rigidity of common carrier status in the United States under the Communications Act. The restrictions and regulatory constraints imposed by Titles II and III of the Communications Act would likely impede the development of above 1 GHz LEO satellite systems.

One potential problem with mandating Title II or other nondiscrimination requirements may be the need to allow numerous

service providers access to the LEO satellite systems each through their own gateway. Such a situation would greatly complicate matters since the different service providers/gateway operators for each LEO satellite system would need to coordinate among themselves.[5] In addition, the introduction of a large multitude of gateways accessing the LEO satellite system would necessitate the use of greater amounts of spectrum for feeder links (or diminished quality with the same amount of spectrum). Any Commission-imposed nondiscrimination or interconnection obligations would thus unnecessarily interfere with the LEO satellite system's ability to structure its operations in the most efficient manner possible.

Likewise, the grants of territorial exclusivity or other similar incentives for investors that may help to support the viability of an ownership interest in a global LEO satellite service consortium may be proscribed by Title II or any other nondiscrimination conditions imposed by the Commission. In order to attract investors, the LEO satellite system consortia will need flexibility to structure their operations in a manner that will provide the members with the necessary incentives to commit significant resources. There does not appear to be any valid basis for the Commission to attempt to circumscribe the internal business structures or operations of the LEO satellite system consortia to meet these legitimate business needs, as would be the result of the suggestions in the NPRM to impose Title II-

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[5] Such a multitude of gateways would also make it extremely difficult for intersystem coordination to permit sharing of the feeder link spectrum by the different LEO satellite systems.

based requirements on the service providers. Indeed, such restrictions would be counterproductive, since they would likely impede the development of above 1 GHz LEO satellite systems, thus negating the public interest benefits that will accrue from these systems.[6]

2. Competitive Markets

The public will best attain the benefits of mobile satellite services if there is vibrant competition among numerous satellite systems. AirTouch anticipates that such competition will emerge, but only if the Commission does not unduly restrict the operations of the above 1 GHz LEO satellite systems. The Commission has before it five applications for above 1 GHz LEO satellite systems. The Commission expects, based on the record developed in the extensive Negotiated Rulemaking Proceeding, that all the LLEO systems could be accommodated within the spectrum allocated to this service.[7] Thus, there should be substantial competition between the LEO satellite systems, which will ensure the availability of capacity without the need for Commission mandate of common carrier or other nondiscrimination conditions.

In addition, the above 1 GHz LEO satellite systems will face competitive pressure from other services, including

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[6] In allocating spectrum for the above 1 GHz LEO satellite service, the Commission recognized that critical new services, including search and rescue, environmental monitoring and disaster management communications, would become available, and that valuable services would be provided in unserved and underserved markets in the United States and abroad. Allocation of Spectrum for a Mobile Satellite Service, ET Docket No. 92-28, 9 FCC Rcd 536 (1994).

[7] NPRM at para. 32. Other systems may also be authorized by foreign governments, which would add to the expectation of intensive intersystem competition.

terrestrial offerings and geostationary satellite systems. Within the United States, mobile services for many of the subscribers of LEO satellite services will be available from cellular carriers, specialized mobile radio service providers and PCS providers. Competition will also be provided by AMSC, the domestic geostationary mobile satellite service provider already licensed by the Commission. Other companies have proposed satellite services that may also compete with the above 1 GHz LEO satellite systems, including CelSat and Teledesic. Finally, competitive pressure outside the United States will be provided by INMARSAT through its global system of geostationary satellites (with the possibility that INMARSAT may add capacity through use of non-geostationary satellites).[8]

In light of all of this expected competition, AirTouch does not believe that there is any need for the Commission to compel the above 1 GHz LEO satellite systems to serve the public indifferently. The competitiveness of the marketplace will ensure that licensees will be unable successfully to engage in unreasonable or anticompetitive practices. Moreover, given the expectation that some of the offerings are likely to be customized, specifically-tailored services, there is nothing implicit in the nature of the service to expect an indifferent holding out to the eligible user public. Thus, under the

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[8] The INMARSAT system could potentially provide competition within the United States as well, subject to the approval of the Commission. Cf., Aeronautical Radio, Inc., 7 FCC Rcd 1006 (1992)(allowing temporary use of INMARSAT for domestic aeronautical service pending launch of the AMSC satellite); American Mobile Satellite Corporation, 7 FCC Rcd 9421 (1992)(allowing temporary use of INMARSAT for domestic LMSS pending the launch of the AMSC satellite).

standards traditionally applied by the Commission, common carrier regulation is inappropriate.[9]

3. FCC Precedent

A decision by the Commission to refrain from imposing common carrier regulation on the above 1 GHz LEO satellite systems is also fully consistent with FCC precedent. In its recently adopted service rules for NVNG LEO satellite services, the Commission determined that the satellite system operator should have the option of requesting authority to operate as a common carrier or a private carrier.[10] Given the even greater level of expected intersystem competition (the Commission had only two commercial applications before it for NVNG LEO satellite service), a fortiori the Commission should provide an equivalent opportunity for each above 1 GHz LEO satellite service operator to specify how it intends to offer its services.

On numerous other occasions the Commission has given system operators the option of electing how they intend to provide service. The Commission allows domestic satellite operators to offer service on a non-common carrier basis.[11] Similarly, the Commission allows separate international satellite

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[9] National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630 (D.C. Cir.), cert. denied, 425 U.S. 999 (1976).

[10] Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Non-Voice, Non-Geostationary Mobile Satellite Service, CC Docket No. 92-76, FCC 93-478, released November 16, 1993 at para. 24.

[11] See e.g., Domestic Fixed-Satellite Transponder Sales, 90 FCC 2d 1238 (1982), aff'd sub nom. Wold Communications, Inc. v. FCC, 735 F.2d 1465 (D.C. Cir. 1984); Martin Marietta Communications Systems, 60 RR 2d 779 (1986).

systems to operate as private carriers,[12] and authorized the Radio Determination Satellite Service to be provided on a non-common carrier basis.[13]

While the Commission did require AMSC to operate its mobile satellite system as a common carrier,[14] that case is readily distinguishable. AMSC involved a unique situation where the FCC created a single licensee organized as a consortium of all of the qualified, interested applicants for the mobile satellite service.[15] Under those special circumstances, the Commission found it necessary to impose common carrier obligations on the sole licensee/space segment provider. In contrast, here there is expected to be vigorous competition and numerous licensees, rendering such a requirement of common carriage unnecessary.

Finally, AirTouch's proposal to allow operators to request private or common carrier status is consistent with the recent legislation that created the CMRS category. Section 332(c)(5) specifically indicates that the Commission's traditional authority to determine the regulatory status of

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[12] Establishment of Satellite Systems Providing International Communications, 101 FCC 2d 1046 (1985).

[13] Amendment of the Commission's Rules To Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to a Radiodetermination Satellite Service, 104 FCC 2d 650 (1986).

[14] Amendment of Parts 2, 22 and 25 of the Commission's Rules to Allocate Spectrum for Land Mobile Satellite Service, 2 FCC Rcd 485 (1987) at para. 34.

[15] AMSC Remand Proceeding, 70 RR2d 271 (1992) at para. 34 ("compelling circumstances unique to this mobile satellite service licensing proceeding justify the adoption of the consortium requirement").

satellite service providers on a case-by-case basis was not altered by the new CMRS scheme adopted by Congress.[16] That provision was enacted with the new above 1 GHz LEO satellite service specifically in mind.

B. Decisions on the Appropriate Regulatory Status of an Operator Should be Made on a Case-by-Case Basis

AirTouch believes that a Commission determination to classify an above 1 GHz LEO satellite service provider as a private carrier or to deem the proposed offering as CMRS should be undertaken on a case-by-case basis. The Commission at this stage should not create a general rule that requires all above 1 GHz LEO satellite services to be offered only as CMRS. Instead, AirTouch suggests that the Commission allow each service provider the option to select whether they want to operate as a common

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[16] 47 U.S.C. § 332(c)(5); Conference Report (H.R. Rep. No. 103-213, 103rd Congress, First Session) at p. 494. The Commission codified this treatment of mobile satellite service providers in 47 C.F.R. § 20.9(a)(10). AirTouch believes that some clarification of that provision may be necessary to ensure consistency with the statute and other portions of the CMRS Decision. The Commission should make clear that a mobile satellite service provided by a licensee or other entity will only be treated as a CMRS if that service provider is providing service directly to end users; that is, intermediaries taking service from an above 1 GHz LEO satellite system operator need not be regulated as common carriers if they are not providing service to end users, but instead are merely providing capacity to other carriers or systems. Similarly, while there is some ambiguity in the "exception" language of 20.9(a)(10), the status of private carriage need not hinge on whether the customers of the mobile satellite system licensee/operator are themselves CMRS providers, since the licensee/operator could be providing capacity to a private carrier without thereby becoming a common carrier. Such an interpretation is fully consistent with Congressional intent and the definition of CMRS, which is dependent upon, inter alia, availability to the "public." Such availability would not occur when the licensee or other entity is not providing service directly to end users.

carrier or as a private carrier. The Commission can then review these determinations in the context of a specific, concrete application and decide whether the proposed services and structure comports with the standards for CMRS or PMRS.

Such an approach is consistent with the Commission's determination in the CMRS proceeding to "continue to use its existing procedures to determine whether 'the provision of space segment capacity by satellite systems to providers of commercial mobile radio service shall be treated as common carriage.'"[17] In this manner, the Commission can determine with respect to particular circumstances which regulatory classification best fits the needs of the operator and the public interest. Mandating at this stage that all above 1 GHz LEO satellite service operators be deemed common carriers would require that a strict standard for waivers be met if an operator wanted to provide non-common carrier offerings.[18] As detailed above, making it exceedingly difficult for an above 1 GHz LEO satellite service provider to avoid the strictures of common carrier regulation would not necessarily best serve the public interest.

In sum, AirTouch urges the Commission to refrain from mandating that all above 1 GHz LEO satellite services be offered as common carriage or imposing non-discrimination conditions. Such a requirement is unnecessary given the expectation of robust

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[17] CMRS Decision at para. 108. Cf., CMRS Decision at para. 79, describing the operation of the presumption that a mobile service falling outside the definition of a CMRS will be presumed to be a private service and the particular factual showing necessary to overcome that presumption.

[18] E.g., Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164 (D.C. Cir. 1990).

competition. Moreover, such a requirement could hamper the development of these valuable new services by denying systems the flexibility to structure their operations in a manner that will attract capital and allow efficient operations. Granting flexibility, in contrast, will help ensure that these services are deployed, thus creating literally thousands of new jobs for the construction and launch of the satellites and provision of these new services, while also enhancing economic growth more broadly by increasing businesses' efficiency through better communications.

II. Feeder Link Operations

A second issue AirTouch views as critical at this stage is the bands that the above 1 GHz LEO satellite systems will utilize for their feeder link operations. As an investor in GLOBALSTAR, as well as a gateway operator/service provider, AirTouch is concerned with the suggestion that the 28 GHz Band be used for feeder link operations.[19] The feeder link issue was addressed during the above 1 GHz negotiated rulemaking and has continued to receive attention. AirTouch has reviewed the extensive record that has been developed on feeder links, and believes that the record firmly supports LQP's request for feeder links in the C-Band.

Of the options being discussed, AirTouch believes that the C-Band is clearly superior. In terms of designing and

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[19] FCC Public Notice, CC Docket No. 92-297, Mimeo No. 41726 (released February 11, 1994) 59 Fed Reg 7961 (February 17, 1994).

constructing the satellites, use of the C-Band for feeder links will impose the lowest costs. Antenna technology for C-Band has already been developed, whereas use of the 28 GHz band will require the development and testing of entirely new antenna systems. Although some 28 GHz developmental work has taken place in connection with NASA's ACTS program, additional work would have to be done in order to develop 28 GHz satellite antennae specifically for low-Earth orbit satellites.

Similarly, the gateway Earth stations for feeder link operations in the C-Band will be smaller in size, less complex and less expensive to construct and operate. In addition, the extensive experience already garnered with respect to C-Band Earth stations will ensure the reliability of operations. These benefits, including enhanced reliability and lower costs of both the satellites and gateway Earth stations (reflected in lower rates), in turn will be enjoyed by the above 1 GHz LEO satellite service customers.

A significant advantage from feeder link operations in the C-Band results from the propagation characteristics of the lower frequencies. Rain attenuation will present problems with respect to the higher frequencies. Although there are means for offsetting the potential propagation problems, those solutions impose additional costs in terms of both the expense of the gateways and the amount of spectrum necessary to achieve comparable throughput. Alternatively, the propagation problems in the higher bands could lead to less reliable service under certain conditions in certain areas, resulting in customers experiencing dropped calls or an inability to make a call. In

addition, operations in the Ka-Band will double feeder link bandwidth requirements, since rain depolarization will make polarization re-use unworkable.

AirTouch believes that LQP has now demonstrated that through the use of reverse band sharing, it will be possible for the low-Earth orbit satellite systems to coexist in the C-Band with the geostationary satellite systems presently operating in that band. Thus, despite the present significant use of the C-Band by geostationary satellite systems, AirTouch believes that sharing is highly practical. Moreover, the other bands present no clear advantage. While the 28 GHz band is presently unoccupied, several applicants have already staked a claim to that spectrum.

The Commission has proposed a new broadband terrestrial service in that band.[20] In addition, NASA is using the 28 GHz band for its experimental ACTS program; Norris satellite has been authorized to construct satellites for use in the adjacent 29.5-30 GHz band and has sought to use parts of the 28 GHz band as well; Hughes has filed its "Spaceway" application for use of the band for fixed satellite services; and Teledesic has filed an application to launch an 800 satellite constellation of LEO satellites to provide fixed satellite services using the 28 GHz band. Thus, there is no "clear" spectrum in any of the bands suggested for the above 1 GHz LEO satellite system feeder link

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[20] Rulemaking to Amend Part 1 and Part 21 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band and to Establish Rules and Policies for Local Multipoint Distribution Service, CC Docket No. 92-297, FCC 92-538, released January 8, 1993.

operations.

As a gateway operator and service provider, AirTouch has additional reasons for supporting the use of the C-Band for feeder links beyond its independent confirmation of the arguments raised by LQP. Given the potential problems with rain attenuation, if the higher frequencies are used there is a greater likelihood that in certain areas or climactic conditions service may be degraded or unavailable. Unreliable service will adversely impact AirTouch's customers who are likely to be using the system for important communications needs. The proposed service availability requirements specified in the NPRM reinforce the importance the Commission places upon the availability and reliability of the above 1 GHz LEO satellite services.

While to some extent the problems of service availability can be compensated for through "space diversity," in order to accomplish this the gateway operator would need to construct each gateway with two antennas separated by some 20 miles. Such a measure would greatly increase the cost of deploying gateways. In addition, the necessity of gateways with the two antennas some 20 miles apart could also potentially increase the difficulty of coordinating with terrestrial point-to-point microwave users.

While the number of terrestrial users in the C-Band theoretically poses potential problems of interference to those point-to-point licensees, AirTouch does not anticipate any significant problems in coordination. If the feeder links are in the C-Band, then the gateways need not deploy widely separated pairs of antennas for each gateway. The gateway operator will

only need to locate a single site for each gateway, and the operator has significant flexibility in locating its gateways. AirTouch anticipates that it will not have any problems in selecting gateway locations for U.S. operations in sparsely populated or other areas away from where point-to-point users are authorized so as to minimize any potential terrestrial coordination concerns. AirTouch will have significant flexibility because it can obtain any necessary public switched network or other interconnections even from remote gateway locations.

Because C-Band coordination with terrestrial users will be relatively easy to accommodate and reverse band sharing will make it possible to coordinate with the geostationary satellite systems, the above 1 GHz satellite systems can readily coexist in the C-Band with the current licensees. The additional benefits of the C-Band for feeder link operations, including lower costs for both the space segment and the gateways (and hence lower prices for subscribers) and more reliable service (due to the better propagation characteristics in the lower bands), render the C-Band as the best location for feeder link operations for the above 1 GHz mobile satellite systems.[21]

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[21] With respect to feeder links, AirTouch also supports the Commission's decision not to auction the licenses for those frequencies. Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, FCC 94-61, released April 20, 1994, at para. 43. As the Commission correctly observed in that decision, mutual exclusivity will be rare, and requiring auctions for intermediate links would impose unnecessary costs and delays, thus hindering the development of valuable services.

CONCLUSION

AirTouch shares the Commission's goal of creating a regulatory environment that will foster the rapid deployment of the beneficial new services that can be provided by the proposed low-Earth orbit satellite systems. These new services have the potential to save lives, spur economic development in the United States and abroad, and create thousands of new jobs. In order to ensure that the public interest will thus be maximized, AirTouch urges the Commission not to impose common carrier or other nondiscrimination requirements on the above 1 GHz LEO satellite service operators. Such measures are unnecessary and would prove to be counterproductive, since they would deny the operators the flexibility necessary to support these new services. In addition, AirTouch urges the Commission to allow the above 1 GHz LEO satellite systems to utilize the C-Band for their feeder link operations. These two actions will help ensure that the rules adopted by the Commission for above 1 GHz LEO satellite services will best serve the public interest.

Respectfully submitted,

Stephen L. Goodman
Halprin, Temple & Goodman
Suite 650 East Tower
1100 New York Avenue, N.W.
Washington, D.C. 20005
(202) 371-9100

David A. Gross
AirTouch Communications
1818 N Street, N.W.
Washington, D.C. 20036
(202) 293-4955

Dated: May 5, 1994 Counsel for AirTouch Communications

CERTIFICATE OF SERVICE

I, Kay Hawkins, hereby certify that I have on this 5th day of May, 1994, caused copies of the foregoing "Comments of AirTouch Communications" to be served by U.S. mail, postage-prepaid, or by hand delivery (indicated with *), to the following:

*James R. Keegan
Chief, Domestic Facilities Division
Federal Communications Commission
Room 6010
2025 M Street, N.W.
Washington, D.C. 20554

*Fern J. Jarmulnek
Federal Communications Commission
Room 6324
2025 M Street, N.W.
Washington, D.C. 20554

*Gerald P. Vaughan
Deputy Bureau Chief (Operations)
Federal Communications
Room 500
1919 M Street, N.W.
Washington, D.C. 20554

*Cecily C. Holiday
Satellite Radio Branch
Federal Communications Commission
Room 6010
2025 M Street, N.W.
Washington, D.C. 20554

Robert A. Mazer
Albert Shuldiner
Nixon, Hargrave, Devans & Doyle
One Thomas Circle
Suite 800
Washington, D.C. 20005

*Richard Metzger
Acting Chief, Common Carrier Bureau
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, D.C. 20554

*Thomas Tycz, Deputy Chief
Domestic Facilities Division
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, D.C. 20554

Jill Abeshouse Stern
Jane M. Sullivan
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20036

Gerald Helman
Vice President
Policy and International Programs
Mobile Communications Holdings, Inc.
1120 19th Street, N.W.
Washington, D.C. 20036

Barry Lambergman
Fletcher Heald & Hildreth
1300 North 17th Street
11th Floor
Rosslyn, VA 22209

Norman R. Leventhal
Raul R. Rodriquez
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006

Bruce D. Jacobs
Glenn S. Richards
Fisher Wayland Cooper
Leader & Zaragoza
2001 Pennsylvania Ave., N.W.
Suite 400
Washington, D.C. 20006

Philip L. Malet
Alfred M. Mamlet
Steptoe & Johnson
1330 Connecticut Ave., N.W.
Washington, D.C. 20036

Lon C. Levin
American Mobile Satellite
Corporation
10802 Parkridge Boulevard
Reston, VA 22091

William D. Wallace
Crowell & Moring
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Kay Hawkins

Kay Hawkins

May 5, 1994